

MEMO ENDORSED

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DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 04/27/2020

April 27, 2020

VIA ECF

Hon. Barbara Moses
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Application GRANTED to the extent that the Court will hold a telephonic conference on **May 11, 2020 at 11:00 a.m.** regarding opt-in plaintiff Nikolic's discovery obligations and defendants' request that Nikolic's claims be dismissed. At the scheduled time, counsel are directed to call (888) 557-8511 and enter the access code 7746387. In advance of the conference, and no later than May 4, 2020, the parties shall file a joint letter, no longer than four pages in the aggregate (two pages for each side), succinctly stating their respective positions. It is the Court's intention to rule on the dispute at the hearing, unless a party shows good cause to proceed to formal motion practice. SO ORDERED.



Barbara Moses, U.S.M.J.
April 27, 2020

Re: *Mirko Djurdjevich v. Flat Rate Movers, Ltd., et al.*
Case No.: 17-CV-00261 (AJN-BCM)

Dear Judge Moses:

As you are aware, our firm represents the Defendants Flat Rate Movers, Ltd., Sam Gholam, and Israel Carmel (collectively, "Defendants") in the above-referenced action. We write to request a pre-motion discovery conference. On May 9, 2019, Defendants served opt-in plaintiff Najdan Nikolic ("Nikolic") with Defendants' First Demand for Discovery. Nikolic failed to respond to Defendants' demand and did not produce any documents in this matter. Moreover, Defendants have made several attempts to schedule Nikolic's deposition but was informed by Plaintiff's counsel that he was out of the country with no set date of return. Nikolic never appeared for a deposition. On or about September 3, 2019, Defendants served Nikolic with a good faith letter regarding his discovery deficiencies and his failure to appear for a deposition.

On February 19, 2020, our office spoke with Nikolic's counsel, Matthew Heerde, who indicated that he had not heard from his client in several months, despite great efforts to contact him. Mr. Heerde stated that although he could not stipulate to discontinue Nikolic's claims, he would not oppose Defendant's motion to dismiss for failure to prosecute.

For the reasons set forth above, Defendants respectfully request a pre-motion discovery conference to address the issues contained herein, or alternatively, request permission from the Court to draft a letter-motion to dismiss Nikolic's claims.

Respectfully submitted,

/s/

Christopher R. Travis

cc: Matthew C. Heerde, Esq.
Law Office of Matthew C. Heerde (via ECF)